

JAN 06 2011

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

ROJAI LAVAR FENTRESS,
Plaintiff,

Civil Action No. 7:10-cv-00468

v.

MEMORANDUM OPINION

GENE JOHNSON, et al.,
Defendants.

By: Hon. Jackson L. Kiser
Senior United States District Judge

Rojai Lavar Fentress, a Virginia inmate proceeding pro se, filed a civil rights complaint pursuant to 42 U.S.C. § 1983. By order entered on November 10, 2010, the court informed plaintiff, inter alia, that he had not adequately documented his motion for leave to proceed in forma pauperis and provided him twenty days to return the completed forms to the court. The court specifically noted that plaintiff must file documentation of his account for the six months prior to filing the complaint, "obtained from the appropriate prison official of each prison at which the prisoner is or was confined." (Order (no. 4) ¶ 3.) The order also warned plaintiff that his failure to file the requested documentation within the time limit would result in the action being dismissed without prejudice for failing to comply with a court order.

Plaintiff's subsequently-filed inmate account form reflected only his inmate account at one of two facilities where plaintiff was housed within six months of filing the complaint. Thus, plaintiff failed to comply with the court's order and 28 U.S.C. § 1915(a)(2). See, e.g., Dupree v. Palmer, 284 F.3d 1234, 1237 (11th Cir. 2002) (reasoning that the filing fee is due upon filing a civil action when in forma pauperis provisions do not apply to plaintiff and that the court is not required to permit plaintiff an opportunity to pay the filing fee after denying leave to proceed in forma pauperis). As the time allotted for plaintiff to fully document his inmate trust account has expired and plaintiff failed to comply with the court's earlier order, this action is dismissed

without prejudice. Plaintiff may refile his claims at the time he can either pay the \$350 filing fee or properly file his application to proceed in forma pauperis.

The Clerk is directed to send copies of this memorandum opinion and the accompanying order to the plaintiff.

Enter: This 6th day of January, 2011.


Senior United States District Judge